[Shri V. N. Gadgil]

coordination, particularly because we were both educated at the same college in Pune.

II. Decisions of U. S. Court on Bhopal Gas Disaster Case.

THE MINISTER OF STATE IN THE DEPARTMENT OF INDUSTRIAL DEVELOPMENT (SHRI M. ARUNACHALAM): Sir a preliminarly report, conveying the operative part of the decision of the U. S. Judge that the Bhopal disaster law suit be tried in India, has been received. The decision of the Judge is coupled with certain important conditions imposed on Union Carbide Corporation, USA. The question of imposing these conditons, in case the court decided that the suit be tried in India, had been raised by our attorneys at the time of the hearing of the case in January, 1986. It had then been pointed out that for an Indian court, to have effective jurisdiction over Union Carbide Corporation, USA, it will be necessary for Union Carbide not only to submit to the jurisdiction of Indian Courts, but also to agree to satisfy the judgement rendered by an Indian court. Further, the Judge had been told that it may be necessary to allow discovery outside of India in accordance with the Federal Rules of Civil Procedure and that without these condtions, it would not be possible to effectively prosecute in India, the claims of the Bhopal victims against Union Carbide Corporation, USA.

The Judge has made it clear that his decision is subject to the acceptance of all the conditions imposed by him. Essentially, the Judge has required Union Carbide to fully submit to the jurisdiction of the Indian court, to satisfy any judgement, corporating with animal requirement of due process, rendered by the Indian courts, and to allow discovery under the model of the United States Federal Rules of Civil Procedure. It should, therefore, now be possible to seek enforcement of the judgement that pay be given by an Indian court in the United States, where the aassets of Union Carbide Corporation, USA, necessary to satisfy our claims, are located.

We are reviewing the full text of the court order and subsequent developments. I will like to assure the House that we will continue to take prompt and effective action to fully and expeditiously deal with the claims of the Bhopal victims and allied matters.

SHRI M. KADHARSHA (Tamil Nadu): Sir, I am on a point of order. This statement of the honourable Minister is related to legal aspect of the Union Carbide case. So it is the duty of the Law Minister to come and make a statement. I do not know why the Minsiter of State for Industrial Development has made this statement. This is fully containing legal aspects of the Union Carbide case.

MR. DEPUTY CHAIRMAN: This does not contain legal aspects of the case. This is a preliminary statement only.

SHRI R. RAMAKRISHNAN (Tamil Nadu): Mr. Deputy Chairman, Sir, on December 3, 1984 the whole world awoke to the shocking news of the grimmest man-made tradgedy of recent times which had struck Bhopal. About one and a half years later, that is, today, the hapless victims of this pillar to post with the end of road still not in sight. Today we have got the judgment given by the honourable Justice of the US Court, Justice Keenan, which the Minister has referred to in his statement, referring the matter to the Indian courts. A compensation of about Rs. 420 crores was reportedly offered in private negotiations and rejected by the Indian Government. Now, Sir, according to this judgement, the whole process has to start off again and a complaint has to be filed before the Civil Judge of Bhopal for which an appeal will lie to the Madhya Pradesh High Court and another later to the Supreme Court.

I am coming to my clarifications only, Sir; I do not want to make a speech on this.

I would like to ask the Minister whether the Government will come forward to take up the matter, as this is a public interest matter involving the entire nation, straightway in the Supreme Court.

By talking to the Chief Justice of the Supreme. Court the whole matter can be shortcircuited so that the Union Carbide the multinational company which has already caused enough tragedy in this word, will not have any recourse once the Supreme Court decides on this issue. So, will the Government of India consider doing this? Of course, we cannot bind them to any time-schedule.

A lot of evidence has to be let in etc. So, this matter has got to be properly dealt with by the Government.

Secondly, I would like to ask the Minister, through you, at what stage the private negotiation is with the Union Carbide people and whether they have given any figure. Suppose they feel in their wisdom that Rs. 1,000 crores may meet the ends of justice. Has any such figure been suggested to the Union Carbide people?

Finally, Sir, I would like to ask the Minister whether the activities of the Union Carbide people in India and their lobbies are being carefully watched and monitored by our Intelligence and other people to see that they do not tamper with our otherwise very good judicial system which is held even by the American courts in the highest esteem.

SHRI NIRMAL CHATTERJEE (West Bengal): Sir, I am on a different leg altogether. On an earlier occasion, when this question was discussed, we were told that the Varadharajan Committee, the Committee headed by the CSIR Director-General, had submitted a report that it would prejudice the interests of the victims, and incidentally of the country, if the non-official agencies and the enquiry commission appointed in Madhya Pradesh were allowed to work. Therefore, that enquiry Commission was disbanded and the various non-official agencies reporting on the after-effects of the Bhopal disaster, were not allowed to proceed with their enquiries. Since now the whole thing has reverted to this, will the Minister agree to let all the non-official agencies, the medical agencies, to make their direct investigation unfettered by the State Government or by any other authority and submit their case before the Supreme Court? This is the only question I want to ask.

PROF. C. LAKSHMANNA (Andhra Pradesh): Mr. Deputy Chairman, Sir, I have two clarifications to seek.

Sir, as a result of the judgement of the U.S. Court Judge, the entire proceedings have been delayed. In view of this, I would like to ask the Minister what steps will be taken by the Government in addition to what has been done already, to redress the difficulties, to mitigate the problems faced by the Bhopal gas victims. Otherwise, if we have to wait for the Courts once again to give a judgement and if justice has to be done through the Courts only, there will be a lot of time, and that may mean a lot of harassment to the Bhopal gas victims. Therefore, my first question is what additional steps will be taken by the Government of India to meet the problems of these people.

Secondly, Sir, the whole question of the judgement in the U.S. courts has brought out something very pointedly. We have been entering into agrements with several multinationals for something or the other. Will the Government assure the House that in future this aspect will be kept in mind and sufficient care will be taken to assure that legal problems of this nature will not arise? Therefore, will the Minister assure that with regard to the legal problems of this nature the Government of India will have more careful considerations when entering into contracts with the multi-nationals? If possible, will the Government avoid entering into contract with the multinationals?

SHRI S. W. DHABE (Maharashtra): I fell that the Statement has been very premature. Doubts were expressed here, when the Bill was brought that the Indian Government should represent all the cases whether the US court will have jurisdiction in this matter. May I know from the Minister whether an appeal lies against the judgment of the court with the appellate court in the USA or Supreme Court or any of the parties apart from the Indian Government, because the Union Carbide and others may file an appeal. What is the procedure for filing an appeal? Is there any limitation pres-

[Shri S. W. Dhabe]

cribed for filing appeals and when will they expire. Secondly, I would like to know when the case comes up here whether all the claims will be filed by the Indian Government before the civil courts and take all the steps for securing their money, attach their properties and other things so that after getting the decree the claims are implemented. What steps will the Government take in representing their claims in other courts in India?

DR. SHANTI G. PATEL (Maharashtra): As pointed out, this legal procedure in the Indian courts, though fair, would take considerable time, probably a decade, unless it is short-circuited as suggested by my friend, Mr. Ramakrishnan. In the meanwhile, the reports appearing in the Press show from time to time that those who have been the victims have been suffering physically, mentally and economically. There is no adequate relief for alleviation of their sufferings. May I ask the Minister as to what steps he would like to suggest or take so that a proper relief is organised and they are able to get relief in time. Any relief coming after five or ten years is not going to be any relief and is not going to take away the sufferings of the people.

श्री हुक्मदेव नारायण यादव (बिहार): श्रीमन् मेरा यही कहना है कि जो कानून की प्रक्रिया चलती रहेगी लंबी अवधि तक तो जितने लोग मरे थे उनके बाल बच्चे जो इस गैस से प्रभावित हुए थे, उनमें से बहुत तो मर चुके होंगे जब तक उनको आप मुआवजा देंगे । तो उससे उनको क्या लाभ होगा ?

दूसरे, क्या यह सही है कि अमरीका की अदालत में केस चलता तो लोगों को ज्यादा मुआवजा मिल सकता था और भारत में यह केस चलेगा तो मुआवजे की राशि कंपनी को बचेगी और लोगों को कम मुआवजा मिलेगा, जब ऐसी चर्चा होती है तो इसमें क्या तथ्य है ?

SHRI GURUDAS DAS GUPTA (West Bengal): It seems there has been a bungling in the whole matter. You may kindly refer that several months back I was the solitary soul who raised the matter in this House when I had the information from Bhopal that steps were being taken may be on the recommendation of the Madhya Pradesh Government or by the Union Cabinet that the cases should be withdrawn. There are two aspects. One is disbanding of the Inquiry Commission. Second is withdrawal of cases pending in a court there in Madhya Pradesh.

While raising the special mention, I had drawn the notice of the House that if it is done shall we not fall into the trap of the multi-nations, will it not prejudice our case, whether the process will be delayed, whether the payment of compensation is also going to be delayed. I raised all those important points. That is on record. Some time after while replying to that, or may be taking advantage of that, the hon. Law Minister made a statement. In that Statement he stated that it will be for the benefit of the victims of Bhopal that we continue our case in USA. He also mentioned that if we continue our case, that will go to our disadvantage. Therefore, it is better to disband the commission, better to withdraw the case pending in the Indian court and go straight to USA. Then again it was reported in the press that we tried for a pri-

8.00 P.M. vate negotiation outside the court of law of U.S.A. and almost a negotiation was reached, but the whole matter fizzled out. This is the background in which we are now being given to understand that the court in U.S.A. had taken a decision that it should be referred to an Indian court. Now the point is why the Government of India and Law Department could not foresee that such a situation may happen? Why they have withdrawn all these cases. Since I raised this point because the withdrawal of the case and disbanding of the commission may prejudice our case. Even in Indian court that may not go to our benefit, instead it will go the benefit of the multinationals. Therefore, it is a case of bungling which I would like to put it on record. My point is, if the Indian court passes the judgement then it will be a different story. The Indian court will take much longer time. Whether there is any provision in law to set up a . . .

MR. DEPUTY CHAIRMAN: You have already made your point. Please sit down. Otherwise, I will call the next speaker.

SHRI GURUDAS DAS GUPTA: But my point is different. If the Indian court passes the judgement and awards the compensation to the victims, then, the property of the Union Carbide in India is not upto the value of the compensation which they require to pay. In that case, can the decision of an Indian court lay its hand on the property of Union Carbide outside the country?

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Mr. Deputy Chairman, Sir, I raised this question while discussing the Environment (Protection) Bill, 1986 today. I am happy that this statement has come, because it did not come from the Minister who was replying to the debate. Anyway, my only point is what my hon. friends, Mr. Ramakrishnan had said and Mr. Nirmal Chatterpee also agreed with it that whether we can short-circuit the legal process? I personally feel that it is not possible, because the Union Carbide will come before the court and say that a discriminatory attitude is being meted out to them. I shall humbly request that the doors of negotiations and a negotiated settlement should not be closed. Will the hon. Minister consider this point?

MR. DEPUTY CHAIRMAN: Minister, would you like to react?

SHRI M. ARUNACHALAM: Mr. Deputy Chairman, Sir, I am very much thankful to the hon. Members who have given valuable suggestions. We have studied only the operative part of the decision of the U.S. Judge who said that the Bhopal disaster law suit be tried in India and the case is being sent back to India. The detailed text of the judgement which runs into several pages is being examined carefully. The Judge in USA has scheduled a conference for Tuesday, May 20, 1986 to discuss with all parties to the action what he described as a few "loose ends" subsequent to the decision. They are: (1) When the appeal period begins to run with respect to the decision; (2) By what date Union Carbide should respond as to whether it accepts the conditions set forth in the decision; (3) Whether Union Carbide can appeal from all or part of the decision and (4) Can individual plaintiffs appeal from the decision without the Union of India joining in that appeal.

We will examine all the possibilities for expediting the case. No public interest non-official agency is really prevented from moving the appropriate court. But so far as this case is concerned, the Bhopal Gas Leakage Disaster Act enables the Government to represent all the claimants and, therefore, all interests will be fully protected. After taking into account all these developments, the next course of action will be found out. However, I can assure the House that this will be done effectively and expeditiously.

OBITUARY REFERENCE

MR. DEPUTY CHAIRMAN: Hon. Members, just now we have received a communication about the sad demise of Shri Narinder Singh Brar, a former Member of this House from Punjab. I refer to his passing away with profound sorrow.

Shri Narinder Singh Brar was born at village Chak Jhind Wala in District Ferozepur in Punjab in 1913 and had his education at Muktsar. A farmer by vocation, Shri Brar always espoused the cause of farmers inside and outside this House. He was also associated with a number of educational institutions and welfare organisations in his home State. During his membership of this House from 1966 to 1972, Shri Brar evinced keen interest in its deliberations.

We deeply mourn the passing away of Shri Narinder Singh Brar.

I request Members to rise in their places and observe a minute's silence as a mark of respect to the memory of the departed.

[*Hon. Members then stood in silence for one minute.*]